

## December 11, 2003 Commission Meeting Summary

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### ITEM #

1. **Public Comment.** *None received.*

### CONSENT ITEMS

2. **Approval of the Minutes of the October 2, 2003, Commission Meeting.** *Approved.*

### **ENFORCEMENT**

#### Default Decision and Order

3. **In the Matter of Agapito Fajardo, Friends of Pete Fajardo, and Natividad Odal, FPPC No. 97/046.** Staff: Commission Counsel Julia Bilaver and Investigator III Sandra Buckner. Respondent Agapito Fajardo was a successful candidate for mayor of the City of Carson. Respondent Friends of Pete Fajardo was the controlled committee of Respondent Agapito Fajardo. Respondent Natividad Odal served as the treasurer of Respondent Friends of Pete Fajardo. In this matter, Respondents accepted cash loans, in violation of section 84300, subdivision (a) (two counts); failed to report required information about contributors during five separate reporting periods, in violation of sections 84211 subdivision (f) (five counts); failed to report required information about campaign expenditures during five separate reporting periods, in violation of section 84211, subdivision (k) (five counts); made campaign expenditures in cash, in violation of section 84300, subdivision (b) (one count); made campaign expenditures from a bank account other than the campaign bank account, in violation of section 85201, subdivision (e) (one count); failed to report required lender information for two loans, in violation of section 84211, subdivision (g) (two counts); deposited contributions into an account other than the campaign bank account, in violation of section 85201, subdivision (c) (one count), and failed to report required information about campaign expenditures made by agents, in violation of section 84303 (one count). (18 counts) *Approved; \$36,000 fine.*

#### Late Contribution Reporting Violations

4. **In the Matter of the Law Firm of Joseph M. Alioto; FPPC No. 02/782.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Law Firm of Joseph M. Alioto is a law firm located in San Francisco. Respondent failed to disclose, in a late contribution report, a \$15,000 late contribution to the Alioto for Secretary of State Committee, in violation of Government Code Section 84203(a) (1 count). *Approved; \$2,250 fine.*

#### Campaign Reporting Violations

5. **In the Matter of California Pro-Life Council, Inc. PAC and James Mathwig, FPPC No. 01/182.** Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Jon Wroten. Respondent California Pro-Life Council, Inc. PAC is a state general purpose recipient committee, sponsored by the California Pro-Life Council, Inc. Respondent Committee and its sponsor are located in Sacramento County. During 1998, Respondent James Mathwig served as the treasurer for Respondent Committee. Respondents failed to timely disclose eight late independent expenditures in properly filed late independent expenditure reports prior to 1998 primary and general elections, in violation of Section 84204(a) (8 counts). *Approved; \$11,000 fine.*
6. **In the Matter of Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe; FPPC No. 02/909.** Staff: Commission Counsel Jennie Eddy and Investigator III Leon Nurse-Williams. Respondent Lou Lopez was an unsuccessful candidate for a seat on the Orange County Board of Supervisors in the November 3, 1998 general election. Respondent Lou Lopez for Supervisor was the controlled committee of Respondent Lou Lopez. Respondent Sheri Schwabe was the treasurer of Respondent Committee. Respondents committed seven violations of the Act by failing to keep the required campaign records necessary to prepare two campaign statements, in violation of section 84104 of the Government Code (2 counts), and failing to disclose five late contributions, in violation of Government Code Section 84203(a)(5 counts). *Approved; \$6,500 fine.*
7. **In the Matter of Donna Casey and Casey for Supervisor '98, FPPC No. 00/854.** Staff: Commission Counsel William L. Williams, Jr. and Accounting Specialist William Marland. Respondents Donna Casey and Casey for Supervisor '98 of San Francisco committed four violations of the Political Reform Act by failing to disclose all expenditures of \$100 or more on campaign statements, in violation of section 84211, subdivision (j)(1)-(4) of the Government Code (2 counts); and by failing to report the total amount of expenditures made to persons who received \$100 or more, in violation of section 84211, subdivision (h) of the Government Code (2 counts). *Approved; \$6,000 fine.*
8. **In the Matter of Scott Cook, FPPC No. 01/235.** Staff: Commission Counsel William L. Williams, Jr. and Investigator III Jon Wroten. Respondent Scott Cook of Woodside, California, committed four violations of the Political Reform Act by failing to file two major donor committee campaign statements, in violation of section 84200, subdivision (b) of the Government Code (2 counts), and by failing to electronically file two major donor committee campaign statements, in violation of section 84605, subdivision (a) of the Government Code (2 counts). *Approved; \$12,000 fine.*
9. **In the Matter of Elizabeth J. Cabraser; FPPC No. 03/383.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Elizabeth J. Cabraser is a partner in the law firm of Lieff, Cabraser, Heimann & Bernstein, LLP in San Francisco. Respondent committed three violations of the Act by failing to timely file two semi-annual campaign statements, in violation of Government Code Section 84200(b) (2 counts), and by failing to file a semi-annual campaign statement electronically, in violation of Government Code Section 84605(a) (1 count). *Approved; \$12,000 fine.*
10. **In the Matter of Ram Development, Inc.; FPPC No. 03/467.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Ram Development, Inc. is a

corporation engaged in real estate development, located in San Francisco. Respondent committed two violations of the Act by failing to timely file a semi-annual campaign statement, in violation of Government Code Section 84200(b) (1 count), and by failing to file a semi-annual campaign statement electronically, in violation of Government Code Section 84605(a) (1 count). *Approved; \$6,000 fine.*

**11. In the Matter of Richard T. Santulli; FPPC No. 03/497.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Richard T. Santulli is Chairman and Chief Executive Officer of NetJets, Inc., headquartered in Woodbridge, New Jersey. Respondent committed two violations of the Act by failing to timely file a semi-annual campaign statement, in violation of Government Code Section 84200(b) (1 count), and by failing to file a semi-annual campaign statement electronically, in violation of Government Code Section 84605(a) (1 count). *Approved; \$6,000 fine.*

**12. In the Matter of Daniel D. Villanueva; FPPC No. 03/495.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Daniel D. Villanueva is the chairman of Villanueva Capital Corporation, located in Los Angeles. Respondent committed two violations of the Act by failing to timely file a semi-annual campaign statement, in violation of Section 84200, subdivision (b) (1 count), and by failing to file a semi-annual campaign statement electronically, in violation of Government Code Section 84605(a) (1 count). *Approved; \$6,000 fine.*

**13. In the Matter of Beazer Homes USA, Inc.; FPPC No. 03/496.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Beazer Homes USA, Inc. is a corporation engaged in the building and selling of single family residences, headquartered in Atlanta, Georgia. Respondent committed two violations of the Act by failing to timely file a semi-annual campaign statement, in violation of Government Code Section 84200(b) (1 count), and by failing to file a semi-annual campaign statement electronically, in violation of Government Code Section 84605(a) (1 count). *Approved; \$6,000 fine.*

**14. In the Matter of Riverside County Business & Property Owners Coalition and Daralyn Reed, FPPC No. 02/152.** Staff: Deanne Canar Senior Commission Counsel and Dennis Pellon Supervising Investigator. Respondent Riverside County Business & Property Owners Coalition (“Riverside Coalition”) was a committee that existed primarily to support a group of specific candidates being voted upon in the November 4, 1997 election in the City of Perris. Respondent Daralyn Reed was the treasurer of Respondent Riverside Coalition. Respondents failed to file an amended statement of organization, within ten days of a change in the primary activity of Respondent Riverside Coalition, in violation of Section 84103, subdivision (a) (1 count), and failed to file a semi-annual campaign statement, for the reporting period January 1 through December 31, 1997, in the correct location, in violation of Section 84215, subdivision (e) (1 count). *Approved; \$4,000 fine.*

### **SEI Violations**

**15. In the Matter of Barbara Keyani, FPPC No. 03/032.** Staff: Commission Counsel Elizabeth K. Conti. Respondent Barbara Keyani, Coordinator of Special Projects and Communications for the Santa Barbara School District and the Santa Barbara High School

District, failed to disclose a source of income on her 2001 and 2002 annual statements of economic interests, in violation of Section 87300 (2 counts). *Approved; \$3,000 fine.*

**16. In the Matter of Thomas Campbell, FPPC No. 02/462.** Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Thomas Campbell, Mayor of the City of Solana Beach failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87203 (1 count). *Approved; \$600 fine.*

**17. In the Matter of Jeff S. Coffman; FPPC No. 01/304.** Staff: Commission Counsel William J. Lenkeit and Investigator III Dan Schek. Jeff Coffman, an appointed member of the Redevelopment Design Review Committee for the City of Fullerton, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). *Approved; \$800 fine.*

### **Major Donor - Streamlined Procedure**

**18. Failure to Timely File Major Donor Campaign Statements –** Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due for the calendar year of 2002, in violation of Government Code Section 84200:

- a. **In the Matter of Peter Morton, FPPC No. 2003-582.** Peter Morton of Los Angeles, California failed to timely disclose contributions totaling \$36,000 (1 count). *Approved; \$5,000 fine.*
- b. **In the Matter of Basic Resources, Inc., FPPC No. 2003-567.** Basic Resources, Inc. of Modesto, California failed to timely disclose contributions totaling \$25,000 (1 count). *Approved; \$400 fine.*
- c. **In the Matter of Berger & Montague, P.C., FPPC No. 2003-568.** Berger & Montague, P.C. of Philadelphia, Pennsylvania failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$1,500 fine.*
- d. **In the Matter of Harvey Weinstein, FPPC No. 2003-588.** Harvey Weinstein of New York, New York failed to timely disclose contributions totaling \$11,000 (1 count). *Approved; \$1,650 fine.*
- e. **In the Matter of Digital Campaigns, Inc., FPPC No. 2003-575.** Digital Campaigns, Inc. of Palo Alto, California failed to timely disclose contributions totaling \$10,200 (1 count). *Approved; \$1,530 fine.*
- f. **In the Matter of Recording Artists' Coalition, FPPC No. 2003-585.** Recording Artists' Coalition of Santa Monica, California failed to timely disclose contributions totaling \$16,950 (1 count). *Approved; \$2,542.50 fine.*

- g. **In the Matter of Delores Pistacchio, FPPC No. 2003-584.** Delores Pistacchio of Fresno, California failed to timely disclose contributions totaling \$15,000 (1 count). *Approved; \$2,250 fine.*
  - h. **In the Matter of Marcus A. Moreno, FPPC No. 2003-581.** Marcus A. Moreno of Whittier, California failed to timely disclose contributions totaling \$15,000 (1 count). *Approved; \$2,250 fine.*
  - i. **In the Matter of New Images of Beverly Hills, FPPC No. 2003-583.** New Images of Beverly Hills of Beverly Hills, California failed to timely disclose contributions totaling \$18,000 (1 count). *Approved; \$2,700 fine.*
  - j. **In the Matter of Robert Lorsch, FPPC No. 2003-640.** Robert Lorsch of Beverly Hills, California failed to timely disclose contributions totaling \$18,000 (2 counts). *Approved; \$1,600 fine.*
  - k. **In the Matter of Louise Gund, FPPC No. 2003-639.** Louise Gund of Berkeley, California failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$800 fine.*
  - l. **In the Matter of Hank Asher, FPPC No. 2003-566.** Hank Asher of Boca Raton, Florida failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$1,500 fine.*
  - m. **In the Matter of Phoebus Consultants, LLC, FPPC No. 2003-641.** Phoebus Consultants of Burbank, California failed to timely disclose contributions totaling \$15,000 (1 count). *Approved; \$400 fine.*
  - n. **In the Matter of Capitol Records, Inc./EMI Recorded Music, North America, FPPC No. 2003-571.** Capitol Records, Inc./EMI Recorded Music, North America of New York, New York failed to timely disclose contributions totaling \$40,000 (1 count). *Approved; \$5,000 fine.*
  - o. **In the Matter of Shehadey Properties, FPPC No. 2003-586.** Shehadey Properties of Fresno, California failed to timely disclose contributions totaling \$12,100 (1 count). *Approved; \$1,815 fine.*
  - p. **In the Matter of Harlan R. Crow, FPPC No. 2003-574.** Harlan R. Crow of Dallas, Texas failed to timely disclose contributions totaling \$15,000 (1 count). *Approved; \$400 fine.*
- 19. Failure to Timely File Major Donor Campaign Statements.** Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section 84200, and failing to electronically file major donor statements for the calendar year 2002, in violation of Government Code Section 84605:

- a. **In the Matter of John Paul Talty & Affiliated Entities, FPPC No. 2003-459.** John Paul Talty & Affiliated Entities of San Francisco, California failed to timely disclose contributions totaling \$62,000 (1 count). *Approved; \$1,020 fine.*

## **LEGAL MATTERS**

### **Adoption**

**20. Amendment of Regulation 18427.1—Notification to Contributors of \$5,000 or More.**

Staff: Chief of Technical Assistance Carla Wardlow. Committees are required to notify certain contributors that they may have campaign filing obligations under the Political Reform Act. Regulation 18421.7 specifies the content of the notices. Amendments to regulation 18427.1 are proposed to clarify the notice language relating to late contribution reports. *The Commission adopted the proposed amendments.*

- 21. Adoption of Amendments to Regulation 18707.5 – Sources of Income to Owners of Retail Business Entities.** Staff: Commission Counsel Jill Stecher. Government Code Section 87103.5 sets forth an exception whereby a retail customer of a business entity is not considered a source of income to a public official/business owner if certain criteria are met. Regulation 18707.5 implements this section by defining these criteria. Last year, the Legislature amended Government Code Section 87103.5 by adding a new statutory definition of “significant segment” applicable only to retail businesses located in small jurisdictions. Therefore, regulation 18707.5 is presented for amendment to incorporate the 2002 statutory provisions for small jurisdictions and to make other technical conforming and clarifying changes. *The Commission adopted the proposed amendments.*

- 22. Conflict of Interest Codes – Placement of Positions / Classifications in Appropriate Disclosure Categories (Project A-5).** Staff: Commission Counsel C. Scott Tocher. This project, commenced in 2002, examines whether there are effective procedures or guidelines for filing officers of Statements of Economic Interests on how to identify designated employees, notify them of their filing requirement and set forth a timeline for accomplishing both of those tasks. This item presents findings from input received from outreach efforts and presents options for further Commission action. *The Commission directed staff to prepare proposed guidelines for review by the Commission in late 2004.*

- 23. Regulatory Calendar for 2004 and Proposition 34 Retrospective – Proposed Regulatory Refinements.** Staff : Assistant General Counsel John W. Wallace and Commission Counsel C. Scott Tocher. The staff presents the regulatory calendar for 2004 for final approval, including specific refinements to regulations interpreting Proposition 34. *The Commission approved the calendar, with the changes recommended by staff. Staff was directed to prepare proposals described in Item IV.2, the Gift Tickets Cluster.*

### **Approval of Forms and Manuals**

- 24. Approval of 2003/04 Statement of Economic Interests (Form 700) and the Form 700 Certification.** Staff: Technical Assistance Division Chief Carla Wardlow. Staff will request approval of the 2003/04 Statement of Economic Interests (Form 700) and the Form 700 Certification. *Approved.*

## **ITEMS REMOVED FROM CONSENT**

### **ACTION ITEMS**

**25. Legislative Report.** Staff: Executive Director Mark Krausse. *No action taken.*

### **DISCUSSION ITEMS**

**26. Executive Director's Report.** Staff: Executive Director Mark Krausse. *No action taken.*

**27. Litigation Report.** Staff: General Counsel Luisa Menchaca and Senior Commission Counsel Larry Woodlock. *General Counsel Luisa Menchaca reported on two cases not included in the written report—Evans v. Secretary of State and Walters v. Secretary of State. No action taken.*